

Marc S. Dreier (MD-9713)  
Joel A. Chernov (JC-8789)  
Regina M. Alter (RA-7014)  
DREIER LLP  
499 Park Avenue  
New York, New York 10022  
(212) 328-6100

*Attorneys for Plaintiffs*

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
MARCO BORGRA, et al., : 07 CV 5807 (TPG)  
Plaintiffs, : DECLARATION OF  
- against - : ALEJANDRO R. LUPPI  
THE REPUBLIC OF ARGENTINA, : IN SUPPORT OF MOTION  
Defendant. : FOR SUMMARY JUDGMENT  
-----X

ALEJANDRO R. LUPPI declares under penalty of perjury as follows:

1. I am a citizen of The Republic of Argentina ("Argentina") and plaintiff in the above-captioned matter. I make this declaration in support of my motion for summary judgment as against Argentina. I have personal knowledge of the facts set forth below.
2. As set forth in the Complaint, it cannot be disputed that (i) I own the bonds upon which I have sued (the "Bonds"); (ii) Argentina has defaulted on its contractual obligations with respect to the Bonds; and (iii) Argentina has received a written notice of default accelerating Argentina's payment obligations. Accordingly, summary judgment is appropriate.

3. On March 31, 1993, I acquired \$54,000 in bonds (ISIN No. XS0043120822) (the "FRB Bonds") issued by Argentina pursuant to the Floating Rate and Bond Exchange Agreement dated December 6, 1992 (the "FRB Agreement"<sup>1</sup>).

4. Also, on March 31, 1993, I acquired the following Bonds issued by Argentina pursuant to a USD Discount Bond and Par Bond Fiscal Agency Agreement, dated as of April 7, 1993 (the "DPB FAA"):<sup>2</sup> (i) ISIN No. XS0043118339 in the aggregated principal amount of \$26,000; and (ii) ISIN No. XS0043119576 in the aggregated principal amount of \$98,000 (together, the "DPB Bonds").

5. The FRB Bonds and the DPB Bonds are deposited under the name of my bank, Citigroup, and have been booked electronically by Citigroup in my name. When I acquired the FRB Bonds and the DPB Bonds, I received a certificate of authentication from Argentina for the FRB Bonds and DPB Bonds. Copies of those certificates, all three as of March 31, 1993, are annexed hereto as Exhibits 1, 2 and 3. Further, a copy of my most recent letter from Citigroup, as of November 26, 2007, is annexed hereto as Exhibit 4. That letter indisputably shows that I continue to own the FRB Bonds and DPB Bonds.

6. Notwithstanding its payment obligations under the FRB Bonds and the DPB Bonds, on or about December 20, 2001, Argentina announced an indefinite moratorium on the payment of principal and interest with respect to all of its foreign debt, including all payments due under the FRB Bonds and the DPB Bonds. Prior to that declaration, Argentina had made payments with respect to the FRB Bonds and I am now owed \$30,240 with respect thereto.

7. Since December 2001, Argentina has failed to make the following payments in connection with the FRB Bonds: March 31, 2002 - \$4,320, September 30, 2002 -

---

<sup>1</sup> A copy of the FRB Agreement and its Exhibits are annexed to the Complaint as Exhibits B and C, respectively.  
<sup>2</sup> A copy of the DPB FAA is annexed to the Complaint as Exhibit D.

\$4,320, March 31, 2003 - \$4,320, September 30, 2003 - \$4,320, March 31, 2004 - \$4,320, September 30, 2004 - \$4,320 and March 31, 2005 - \$4,320.

8. Pursuant to the "Form of Discount Bond and Par Bond," which is annexed as Exhibit 1 to the Collateralized Discount Bond and Par Bond Exchange Agreement, dated as of December 1992 (the "1992 Bond Form"), the following, *inter alia*, are defined as "Events of Default":

- (a) interest on any Bond is not paid when due and such default continues for a period of at least 30 days; or
- (b) Argentina fails to pay the principal amount of any Bond called for redemption when due for a period of 15 days; or
- ...
- (d) Argentina defaults in the performance of any other obligation contained in the Bonds or the other Principal Bond Agreements relating to the Bonds and such default shall continue for a period of 90 days after written notice thereof shall have been given to Argentina at the office of the Fiscal Agent by any registered holder; or
- (e) (i) the holders of 25% or more in aggregate outstanding principal amount of any issue or series of Publicly Issued External Indebtedness of Argentina or any Designated Argentine Governmental Agency (including any Other Bonds), as a result of any failure to pay the principal of, or interest on, such Publicly Issued External Indebtedness, accelerate such Publicly Issued External Indebtedness or declare such Publicly Issued External Indebtedness to be due and payable, or required to be prepaid (other than by a regularly scheduled required prepayment), prior to the stated maturity thereof and such acceleration, declaration or prepayment shall not have been annulled or rescinded within 30 days thereof or (ii) Argentina or any Designated Argentine Governmental Agency fails to pay the principal of any such Publicly Issued External Indebtedness when due (after expiration of any applicable grace period), or (iii) Argentina fails to pay any interest when due under any Other Bonds (after expiration of any applicable grace period); or

(f) Argentina declares a moratorium with respect to the payment of principal of, or interest on, Publicly Issued External Indebtedness or Argentina . . . .

1992 Bond Form at pp. 24-25.

9. The 1992 Bond Form further provides that "if such [Event of Default] is continuing, registered holders of 25% or more in aggregate outstanding principal amount of the [DPB] Bonds may, by written demand to Argentina at the office of the Fiscal Agent, declare the [DPB] Bonds immediately due and payable," together with all accrued interest. *See* 1992 Bond Form at p. 26.

10. In or about December 2001, Argentina declared a moratorium on the payment of principal and interest with respect to all of its foreign debt, including all payments due under the DPB Bonds.

11. Since December 2001, Argentina has failed to make any payment of principal or interest to me on the Bonds.

12. In or about February 13, 2007, pursuant to Section 10(e) of the 1992 Bond Form, the Fiscal Agent communicated to the holders of the DPB Bonds that the Fiscal Agent received written communication from the holders of more than 25% of the principal amount outstanding of the DPB Bonds and that those holders have declared all of the DPB Bonds to be immediately due and payable (the "Notice"). A copy of the Notice is annexed hereto as Exhibit 5.

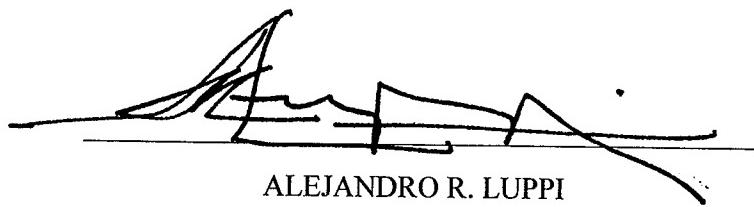
13. Based on the Notice, the principal and interest on the Bonds has become immediately due and payable.

14. Despite the Notice, however, Argentina failed to make any additional payment of principal or interest to me on the Bonds.

15. By reason of the foregoing, Argentina has defaulted on its obligations, and summary judgment is warranted as against it.

I declare under penalty of perjury under the laws of the United States of America  
that to the best of my knowledge the foregoing is true and correct.

Dated: December 12, 2007



A handwritten signature in black ink, appearing to read "ALEJANDRO R. LUPPI". The signature is fluid and cursive, with a prominent initial 'A' and 'R'.

# **EXHIBIT 1**



## **EXHIBIT 2**

REPUBLIC OF ARGENTINA

**COLLATERALIZED FLOATING RATE BOND DUE 2023  
(USD DISCOUNT SERIES L)**

NUMBER

5 NO

19066

**THE REPUBLIC OF ARGENTINA (Argentina) for value received,**

三

or registered assigns.

UNITED STATES DOLLARS

Reference is made to the further provisions set forth under "Terms and Conditions" which are incorporated herein by reference. The Bonds are registered at the close of business in New York on the 15th day next preceding such interest payment date.

This Bond shall not be valid or obligatory until the certificate of authentication hereon shall have been duly signed by an Authenticating Agent under the Fiscal Agency Agreement (as defined herein).  
**THIS BOND SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK, UNITED STATES OF AMERICA.**  
IN WITNESS WHEREOF, Argentina has caused this Bond to be duly executed with the manual or facsimile signature of an Authorized Official.

**CERTIFICATE OF AUTHENTICATION:**

CITIBANK (LUXEMBOURG) S.A.,  
as Authorizing Agent  
3 referred to in the within-mentioned Fiscal Agency Agreement.

Authorized Signatory

OR

THE REPUBLIC OF ARGENTINA

Technical Assistant to the Financial Representative of Argentina

# **EXHIBIT 3**



# **EXHIBIT 4**



111 Wall Street  
New York, NY 10043

November 26, 2007  
File #: 111507003

Alejandro R. Luppi  
c/o Cecilia Luppi  
95 Horatio St Apt 9T  
New York, N.Y. 10014

RE: Republic of Argentina

Dear Mr. Luppi:

This is in response to correspondence from Cecilia Luppi concerning the above referenced security.

Our records show the following certificates registered to Alejandro R. Luppi.

<u>Certificate No.</u>	<u>Amount</u>	<u>Date Issued</u>
PN 4	\$98,000	3/31/93
DN 5	\$26,000	3/31/93
FRN 62	\$54,000	3/31/93

If you have any questions please call 800-422-2066 Monday through Friday from 9:00 AM to 4:30 PM.

Sincerely,  
  
Antoinette Priest  
Investor Services

Derek Ally  
Specialist

## **EXHIBIT 5**

To the Holders of  
**The Republic of Argentina**  
**USD Collateralized Discount Bonds due 2023** (The "Discount Bonds")  
and  
**The Republic of Argentina**  
**USD Collateralized Par Bonds due 2023** (the "Par Bonds")  
(together, the "Bonds")

Pursuant to Condition 10 of the Terms and Conditions of the Bonds, Citibank, N.A., as Fiscal Agent under the Fiscal Agency Agreement dated as of April 7, 1993 (the "Fiscal Agent"), hereby notifies the holders of the Bonds that the Fiscal Agent has received written communication from the holders of more than 25% of the principal amount outstanding of each of the Par Bonds and the Discount Bonds declaring the Bonds immediately due and payable, and has communicated these declarations to the Republic of Argentina.

Citibank, N.A.  
As Fiscal Agent  
February 13, 2007